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SEC.689

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re PATENT APPLICATION of

Technology Center: 3700

Chan-hoon PARK

Group Art Unit: 3743

Serial No.: 09/484,051

Examiner: C. Atkinson

Filed: January 18, 2000

For: WAFER HEATING APPARATUS HAVING FLUID HEAT TRANSFER MEDIUM
AND METHOD OF HEATING A WAFER USING THE SAME

**PETITION UNDER 37 C.F.R. § 1.81 TO DIRECTOR OF
TECHNOLOGY CENTER 3700 FOR
WITHDRAWAL OF FINALITY OF OFFICE ACTION**

Honorable Assistant Commission for Patents
Washington, D.C. 20231

Sir:

Pursuant to 37 C.F.R. §§ 1.181 and 1.113, and M.P.E.P. § 1002.02(c)(3)(a),

Applicants hereby respectfully Petition the Commissioner and his designee, the Director of Technology Center 3700, for Withdrawal of the Finality of the Office Action dated 5 June 2002 in connection with the above-referenced U.S. patent application.

Applicants filed an Amendment on December 11, 2001 amending the independent claim 8 to include the limitations of the progressively dependent claims 16, 17 and claim 23, and canceling claims 16, 17 and 23.

In the Office Action dated 5 June 2002, the Examiner rejected the amended claim 8 as allegedly being unpatentable over Japanese Reference ('722) in view of Akachi.

Japanese Reference ('722) was not cited against claims 16 or 17 at all in the first

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Office Action dated 5 October 2001.¹

Furthermore, in the first Office Action dated 5 October 2001, the Examiner rejected the originally filed claim 6 (dependent from claim 1) on three grounds: (1) under 35 U.S.C. § 102 as allegedly being anticipated by Shinya et al.; (2) under 35 U.S.C. § 102 as allegedly being anticipated by Japanese Reference ('722); and under 35 U.S.C. § 103 as allegedly being unpatentable over Tsutahara et al. in view of Ahern et al.

Applicants filed an Amendment on 11 December 2001 canceling the dependent claim 6 and replacing it with a new independent claim 24 which corresponds to the limitations of the original dependent claim 6, but now written in independent form.

In the Office Action dated 5 June 2002, the Examiner rejected claim 24 as allegedly being unpatentable over Japanese Reference ('722) in view of Akachi.

Akachi was not cited against claim 6 at all in the first Office Action.

The Examiner stated that the Office Action dated 5 June 2002 was "Final." Moreover, the Examiner did allege anywhere in the Office Action that any new grounds of rejection were necessitated by any claim amendment (as indeed they were not). Instead, he merely stated that "Applicant's arguments filed 12/11/01 have been fully persuaded but they are not persuasive." Applicants respectfully submit that if Applicants' arguments were not

¹ Applicants attorney contacted the Examiner on 29 August 2002 by telephone to discuss this situation. The Examiner admitted that the Office Action did not state that these claims were rejected over the Japanese Reference '722. However, the Examiner maintained that he had intended to include claims 16 and 17 in the paragraph in the middle of page 3, and in that he had further intended to include the Japanese Reference '722 in the last paragraph before the Conclusion on page 4. Applicants attorney responded that he could not discern the Examiner's intent and could only respond to what was actually written in the Office Action, not what the Examiner may have intended to write. Applicants' attorney then requested that the Examiner withdraw the finality of the Office Action. The Examiner declined to do so and stated that Applicants would have to file a Petition to have the Finality removed.

persuaded, then the Examiner would not have believed it necessary to present new bases for rejections of these claims.

Accordingly, for the foregoing reasons, **Applicants hereby respectfully petition and request that the declared Finality of the Office Action dated 5 June 2002 be withdrawn.**

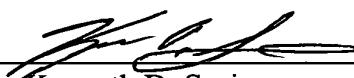
If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any over payment to Deposit Account No. 50-0238 for any additional fee required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

VOLENTINE FRANCOS, P.L.L.C.

Date: 3 September 2002

By:



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